

**FACSIMILE COVER SHEET****Date: April 18, 2011****PLEASE TRANSMIT THE ATTACHED ( 3 ) PAGES TO:****NAME****Bureau of Land Management****FAX NUMBER****703-440-1551**

**RE:** Protest of BLM lease auctions for Arkansas natural gas mineral holdings in the Fayetteville Shale Play.

I am faxing this letter on behalf of Shawn Porter. If you have any questions or need anything further, I can be contacted at 501-362-0055 and can put you in touch with him.

Thank you for your time and attention in this matter.

Sincerely,



Christi Worley

**MAYS & WHITE, PLLC**

rcworley@mayswhite.com

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U.S. Department of the Interior  
Bureau of Land Management  
Eastern States Office  
7450 Boston Boulevard  
Springfield, VA 22153

April 16, 2011

Re: Protest of BLM lease auctions for Arkansas natural gas mineral holdings in the Fayetteville Shale Play.

### **Introduction**

Please accept the following protest on behalf of myself, Shawn Porter, as an individual, and on behalf of the Newton County Wildlife Association, Ouachita Watch League, The Arkansas Chapter of the Sierra Club, and Friends of the Mulberry, which have specifically requested my representation via this letter in order to protest the parcels identified below, as well as, to protest any and all other unnamed parcels of Federal minerals leases planned for competitive or non-competitive auction in the Fayetteville Shale Play. This includes, but is not limited to, the Bureau of Land Management's ("BLM") oil and gas lease sale offerings in Arkansas to be offered at the June 16, 2011 BLM Competitive Oil and Gas Lease Sale / Eastern States, specified as:  
EOI 57, EOI 408, EOI 598, EOI 630, EOI 704, EOI 724, EOI 728, EOI 730, EOI 735, EOI 37, EOI 738, EOI 739, EOI 741, EOI 743, EOI 744, EOI 771, EOI 866, EOI 920, EOI 948, EOI 999, EOI 1000, EOI 1002, EOI 1003, EOI 1020, EOI 1023, EOI 1031

### **Discussion**

BLM does not have a land use plan or Resource Management Plan (RMP) in Arkansas, which includes performance of a corresponding Environmental Impact Study to guide developments in the Fayetteville shale play. As such, no comprehensive scientific analysis has occurred, including cumulative impacts analysis on air and water.

Environmental Assessments (EA's) are limited in scope, and do not adequately address the combined cumulative impacts of multiple leases, well drilling, transport of water, waste, and related infrastructure development across federal agencies and other private lands with federal mineral holdings. Nor have adequate opportunities for public participation in Federal minerals leasing in Arkansas occurred. EA notices to the public are either not available, or have been printed in obscure newspapers with small local circulation, whereas the impacts of federal minerals leasing are far reaching and affect a wide range of citizens and their interests.

EIS analysis, comments, and associated plans would potentially lead to stipulations and guidelines for minerals leasing that are specifically tailored to protect the unique qualities and resources of this region. We believe that such protections are needed, and furthermore, that our right to comment and participate in a comprehensive environmental study has been illegally denied. Due to the absence of a Land Use or Resource

Management Plan (RMP) accompanied by comprehensive Environmental Impact Studies (EIS), these leases are not compliant with NEPA or with BLM's own administrative procedures. Therefore, the leases should be withdrawn, and no further leasing of BLM mineral holdings should occur in Arkansas pending the completion and adoption of approved environmental impact studies and a corresponding Resource Management Plan.

Any EIS studies should include an analysis on the potential groundwater impacts and associated relationships with surface water resources that can be affected by drilling, recovery, servicing, and distribution of minerals / gas. EIS studies should also examine the potential contributions to greenhouse gas emissions from methane and VOC releases, both intentional, as well as, fugitive emissions from leaks and spills. Ground level ozone impacts should also be examined. A vital component of the EIS should involve public outreach and participation with an adequate comment period for input on any final EIS outcomes or proposed actions (60-90 days).

#### **Discussion**

BLM policy directive and guidelines state, "Land use plans are the basis for all decisions BLM makes concerning public lands and minerals, and that's where the leasing process starts. A land use plan, often called a resource management plan or RMP for short, includes an environmental impact statement and normally takes anywhere from two to four years to complete. During that time, the public has numerous opportunities to weigh in on the decisions that will result. Other Federal surface-managing agencies, such as the Forest Service, make leasing decisions through a similar land use planning process. Among other things, the plans let the public know where leasing will be considered and where leasing will not be allowed. They may also note concerns that need to be addressed through leasing stipulations that restrict activity in some way. They often also provide mitigation measures that can reduce impacts from oil and gas development." (end quote) [http://www.blm.gov/es/st/en/prog/minerals/about\\_minerals.html](http://www.blm.gov/es/st/en/prog/minerals/about_minerals.html)

During a phone conversation (April 4, 2011) with BLM staff member Grace Guess of the Jackson, Mississippi Field Office, I was informed that no RMP has been developed for Arkansas. Nor has an Environmental Impact Study been performed, or any comprehensive land use plan (or water use plan) been developed. Therefore, leases specified in this letter, as well as, all previously leased BLM parcels in the Fayetteville Shale Play, are not in compliance with NEPA or BLM directives.

#### **USFS**

The BLM should not be leasing minerals pursuant to a dated Forest Service EIS that does not account for the significant increase in leasing activity occurring since the plan was adopted. Nor does the USFS EIS provide any factual data or information addressing the use and potential impact of hydraulically fractured gas wells, as opposed to conventional drilling technologies that were in use at the time the USFS / EIS was developed. Therefore, this USFS EIS does not address current conditions on the ground, nor does the USFS Forest Plan EIS assess the hydraulic fracturing technology being employed, and its actual and potential impacts on surface uses and resources. Furthermore, the public was not properly notified, informed, or involved in subsequent decisions and analysis

conducted by the USFS approving such activities.

**Conclusion**

BLM leasing of mineral rights should only occur after a comprehensive and current EIS studies have been performed that addresses the range of issues and concerns specific to the use of hydraulic fracturing in the Fayetteville Shale Play, regardless of what person or agency owns or manages the surface rights. Piecemeal EA analysis of individual leases is not adequate to meet the purpose and intention of NEPA, especially when such assessments are not being tiered off of a comprehensive plan that considers the scale and scope of all similar activities and impacts in a given geographic area, and/or, geologic formation.

Therefore, no new leases should be permitted, approved, or auctioned in the Fayetteville shale play until appropriate and comprehensive environmental studies have been performed with ample opportunity for public involvement. Existing mineral leases on National Forest Lands, Wildlife Management Areas, and Army Corps of Engineer holdings, as well as, any other lands where BLM manages mineral leases, should be enjoined. Any drilling or development on these lands should be immediately halted pending the completion of a comprehensive environmental studies for federal mineral rights and leasing activities across the entire play.

Sincerely,

Shawn Porter  
HC 72 Box 69  
Parthenon, AR 72666  
870-446-6126

Cc: Newton County Wildlife Association, Ouachita Watch League, Arkansas Chapter of the Sierra Club, and Friends of the Mulberry